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Finding of No Significant Impact

Imperial Solar Energy Center West

U.S. Department of the Interior
Bureau of Land Management
El Centro Field Office
1661 South 4th Street
El Centro, CA 93342

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BLM Right-of-Way CACA-51644
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INTRODUCTION

This Finding of No Significant Impact (FONSI) addresses the issuance of right-of-way (ROW) grant under Title V of the Federal Land Policy and Management Act (FLPMA), 43 United States Code (USC) Section 1761, for a proposed transmission line and access road across public lands under the jurisdiction of the Bureau of Land Management (BLM), El Centro Field Office, identified as Alternative 1-Alternative Transmission Line Corridor in the Environmental Impact Report/Environmental Assessment (EIR/EA) prepared for the proposed project and as described further below. The transmission line and access road on public lands are related to the development of a solar energy generation facility on private lands. Authorizations for ROW grants are regulated by BLM in accordance with 43 Code of Federal Regulations (CFR) Section 2800 *et seq.*, consistent with Department of the Interior (DOI) and BLM policies and the California Desert Conservation Area Plan (CDCA Plan) (1980, as amended).

In addition to the impacts of the proposed transmission line and access road, this FONSI also considers the environmental impacts of the energy generation project located on private lands. The impacts of the private land, non-Federal action components of the overall project are considered because the non-Federal Actions are dependant upon the requested ROW grant for the transmission line and access road, in that the non-Federal actions cannot or will not proceed unless BLM grants the requested ROW. Therefore, as explained below, the energy generation facility located on private land is treated as a connected action for purposes of NEPA analysis.

PROJECT DESCRIPTION

CSOLAR Development, LLC (CSOLAR) has proposed to construct the Imperial Solar Energy Center (ISEC) West Project (ISEC West Project) primarily on privately-owned lands in Imperial County, CA. The ISEC West Project, as proposed by CSOLAR, consists of three primary components:

- (1) A 250 megawatt (MW) photovoltaic (PV) or concentrated photovoltaic (CPV) solar energy generating facility (generating facility) on 1,130 acres of privately-owned, undeveloped and currently fallow agricultural lands in the unincorporated Seeley area of the County of Imperial, approximately eight miles west of the City of El Centro and 5 miles northwest of the existing Imperial Valley Substation. As noted below, CSOLAR has indicated that it has selected CPV technology for the energy generating facility, however, CSOLAR's selection has not yet received the necessary County approvals. This FONSI applies to both PV and CPV technologies.
- (2) A 230 kilovolt (kV) electric transmission line running generally southeast from the proposed generating facility to the Imperial Valley Substation.
- (3) An access road used for the construction and maintenance of the electric transmission line. The majority of the access road traverses BLM-managed lands within the footprint of the electric transmission line ROW, and only a small portion is outside of that ROW footprint.

Since most of the ISEC West Project's electric transmission line corridor and access road are located on BLM lands, they require a ROW grant from the BLM prior to their construction. As a result, CSOLAR submitted an application for a ROW grant on BLM managed lands, using "Standard Form 299 Application for Transportation and Utility Systems and Facilities on Federal Lands," to the BLM for the proposed transmission line corridor and access road on October 29, 2009. In connection with that request and due to the public/private land configuration of the overall ISEC West Project, a joint EIR/EA was prepared to meet the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), respectively, for the proposed project. The County of Imperial is the lead agency for CEQA purposes, and the BLM is the lead agency for NEPA purposes. The conclusions in this FONSI are based on the analysis in the EIR/EA, therefore, the EIR/EA is incorporated by reference. Copies of the Imperial Solar Energy Center – West EIR/EA are available online at: http://www.blm.gov/ca/st/en/prog/energy/fasttrack/C_Solar_West_CACA-51644/fedstatus.html or in hardcopy at El Centro Field Office, 1661 S. 4th Street, El Centro, California. The County of Imperial is expected to approve the findings of fact and make a *de minimis* finding on September 20, 2011, addressing the proposed private generating facility and permitting CSOLAR to use CPV technology at the private land generating facility as announced in a press release by CSOLAR's parent company, Tenaska, on March 10, 2011. The BLM understands that CSOLAR has already obtained an easement for that portion of the transmission line and access road corridor that crosses private lands.

This FONSI determination is for the proposed 120-foot-wide ROW for the construction

and operation of the electric transmission line and access road, use of temporary construction sites, and ancillary facilities as described below and identified and analyzed in Chapter 2 of the EIR/EA as Alternative 1 – Alternative Transmission Line Corridor (hereinafter, the “Selected Alternative”). As noted above, this FONSI considers the environmental impacts of these components, as well as the impacts of the generating facility and the ancillary facilities located on private lands (collectively the “non-Federal actions”) because the non-Federal Actions cannot proceed unless BLM grants the ROW for the transmission line and access road located on public lands. The BLM NEPA Handbook provides that if the connected non-Federal action and its effects can be prevented by BLM decision-making, as is the case here, then the effects of the non-Federal action are properly considered indirect effects of the BLM action and must be analyzed as such (40 CFR 1508.7, 40 C.F.R. 1508.25(c); H-1790-1 BLM National Environmental Policy Act Handbook [January 2008] at pp. 46-48.) However, once the power from the ISEC West Project reaches the Imperial Valley Substation, it can be distributed to the grid via either the existing Southwest Powerlink transmission line or the planned but not yet constructed Sunrise Powerlink transmission line. Because both the Sunrise Powerlink line and the ISEC West Project will proceed independently (i.e., both can/will be constructed without the other), the ISEC West Project and the Sunrise Powerlink transmission line are not connected actions under NEPA for purposes of the EIR/EA (40 CFR 1508.25(a)(i, ii, iii)).

With the addition of temporary construction areas and the use of an access road within the BLM lands, the total ROW area on BLM-managed lands requested by CSOLAR for the transmission line and the access road is 66.60 acres, which consist of 64.4 acres for a permanent ROW for the electric transmission facility and access road within the electric transmission facility ROW, 0.8 acres for a permanent ROW for the portion of the access road that is located outside the electric transmission facility ROW, and 1.4 acres for temporary ROW for construction and access. Additionally, approximately 3.0 acres of private lands are encumbered by an easement for a portion of the transmission line and access road ROW. The total estimated permanent and temporary disturbance acreage on BLM lands is 13.6 acres.¹ As explained above, the impact of these particular components and the overall generation project were analyzed in the EIR/EA.

FINDING OF NO SIGNIFICANT IMPACT DETERMINATION:

Based on a review of the EIR/EA and including adoption of the mitigation measures and supporting documents referenced therein, I have determined that the Selected Alternative is: (1) not a major federal action having a significant impact on the quality of the human environment, individually or cumulatively with other actions in the general area; and, (2) in conformance with the following statutes and plans: FLPMA, CDCA Plan, Yuha Basin

¹ Any difference in disturbance acreage between the EIR/EA and the FONSI is due to rounding

Area of Critical Environmental Concern (ACEC) Management Plan, Yuha Basin Flat-Tailed Horned Lizard (FTHL) Management Area (MA), and FTHL Range-wide Management Strategy (RMS). Therefore, an environmental impact statement (EIS) is not required. If a federal agency prepares an EA and determines that the proposed federal action does not have the potential to significantly affect the quality of the human environment, then NEPA allows the agency to prepare a FONSI rather than an EIS.

Per NEPA regulations, specifically 40 CFR 1508.27, whether a proposed action significantly affects the quality of the human environment is determined by considering the context and intensity of the action and its effects. Agencies may prepare an EA to determine whether an action would have significant impacts. My finding that, with implementation of the mitigation measures proposed and analyzed in the EIR/EA, no environmental effects associated with the ISEC West Project meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 is based on the analysis in the EIR/EA and is summarized below.

Context

NEPA requires the consideration of the significance of an action in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend on the effects in the locale rather than in the world as a whole. Both short and long term effects are relevant. 40 C.F.R. 1508.27(a). For purposes of analyzing the Selected Alternative, the EIR/EA determined that the context of potential impacts associated with the Selected Alternative was focused on the local and regional scales, based on a determination that the Selected Alternative does not affect statewide or national resource values. Here, the context of the Selected Alternative points to no significant unmitigated environmental impact considering the following:

1. The majority of the ISEC West Project, including the ancillary facilities across BLM-managed lands that are part of the Selected Alternative, will be sited on land already disturbed by past activities including agricultural production and existing transmission facilities, including lines, towers, and the Imperial Valley substation, and therefore, the ISEC West Project will not result in the creation of substantial new areas of disturbance.
2. The transmission line and access road ROW contemplated by the Selected Alternative is a site-specific action directly involving approximately 66.6 acres of BLM-managed lands and approximately 3 acres of private land. Construction of these facilities will result in some new areas of disturbance. As explained in the EIR/EA, the extent of

these disturbance areas will be minimized through the project design features and mitigation measures identified in the EIR/EA. The total permanent and temporary disturbance area on BLM-administered lands associated with the Selected Action is only 13.6 acres. The connected action private land development will occur on 1,130 acres of currently fallow agricultural land; therefore, given the previously disturbed nature of the project site, impacts will be minimal. And, while the construction of the generation facility will remove those agricultural lands from potential production, as explained below, after decommissioning of the ISEC West Project the site will be restored to previous conditions to allow for potential agricultural production in the future. Moreover, mitigation measures avoid, reduce, and compensate for all impacts, ensuring that impacts will be less than significant.

Intensity

The term “intensity” refers to the severity of a proposed action’s impact on the environment. In determining an impact’s intensity, the NEPA regulations direct federal agencies to consider the following ten factors, each of which is discussed below in relation to the Selected Alternative.

- 1) Impacts can be both beneficial and adverse and a significant effect may exist regardless of the perceived balance of effects.***

While consideration of a project's intensity must include analysis of both beneficial and adverse effects, only a significant adverse effect triggers the need to prepare an EIS (40 CFR 1508.27(b)(1); H-1790-1, BLM National Environmental Policy Act Handbook [January 2008], at 71). The potential beneficial effects and adverse impacts of the Selected Alternative are discussed briefly in the following sections.

Beneficial Effects: As described in the EIR/EA, the Selected Alternative would contribute a renewable source of energy to California’s energy mix and has the potential to contribute to stabilizing electricity prices, create new employment opportunities, reduce reliance on imported fuels, and improve air quality by eliminating emissions of criteria pollutants that might otherwise be produced through the generation of an equivalent quantity of electricity from fossil fuel-based source.

Adverse Effects: The construction and operation of the proposed electric transmission line, temporary construction areas and access road within BLM lands would impact resources as described in detail in Chapters 4 and 5 of the EIR/EA. These potential impacts include a short term increase in traffic, temporary dust and particulate matter emissions, indirect impacts to cultural resources, and impacts to sensitive species habitat. Traffic and air quality impacts would be temporary in nature, and air emissions would be reduced through mitigation measures. Construction of the Selected Alternative would

also result in visual impacts. However, as explained in Chapter 4, the visual impacts associated with the use of either CPV or PV technologies would be minimal. Both technologies would use non-reflective materials, and motion sensor lighting will be installed to provide the minimum illumination necessary on the project site. To the extent significant adverse effects to resources were identified, the EIR/EA identifies mitigation measures that minimize those effects to less than significant levels under NEPA. Those mitigation measures are found in the Plan of Development submitted to the BLM and have been incorporated into the terms and conditions of the ROW grant for the Selected Alternative, and mitigation measures imposed by the BLM and Imperial County may also be found in sections 4.4.3, Air Quality; 4.5.3, Greenhouse Gas Emissions; 4.6.3, Geology/Soils and Mineral Resources; 4.7.4, Cultural Resources; 4.9.3, Agricultural Resources; 4.10.3, Health, Safety and Hazardous Materials/Fire and Fuels Management; 4.11.3, Hydrology and Water Quality; 4.12.3, Biological Resources; and 4.13.3, Paleontological Resources of the Final EIR/EA. Additionally, the BLM has determined through consultation with the US Fish and Wildlife Service (USFWS) that adverse impacts to federally listed species are not likely. The foregoing supports the conclusion that the Selected Alternative will not have a significant effect on the quality of the human environment.

2) *The degree to which the selected alternative will affect public health or safety.*

Section 4.10, Health, Safety and Hazardous Materials/Fire and Fuels Management, and the Executive Summary (at ES-30) in the EIR/EA fully analyzed and disclosed potential health, safety, and hazardous materials impacts. Based on the NEPA evaluation, there are no significant impacts under the Selected Alternative, nor the connected generating facility, related to these issues after mitigation. During construction of the transmission line and access road, construction equipment and vehicles are expected to generate some dust or particulate matter. Implementation of the mitigation measures provided in Section 4.4, Air Quality, in the EIR/EA will minimize those impacts related to air quality. Similarly, the EIR/EA concludes that the Selected Alternative will not result in a substantial increase in hazardous or solid wastes. Finally, implementation of the mitigation measures provided in Section 4.10 would minimize the Selected Alternative's impacts related to the trash, debris and herbicides present on the site from the prior uses of the site.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.*

According to the BLM NEPA Handbook (H-1790-1) (January 2008, Section 7.3), "unique characteristics" are generally limited to those previously identified through a legislative, regulatory, or planning process.

The proposed electric transmission line corridor and access road components of the Selected Alternative traverse BLM-managed lands that are located entirely within the CDCA. They are also located in the Yuha Basin ACEC and the Yuha Basin FTHL MA. As discussed in the EIR/EA, the Selected Alternative's potential impacts to biological resources conform to the requirements of the CDCA Plan and the intent of the ACEC Management Plan with regard to sensitive resources and cultural resources. As discussed in the EIR/EA, the design of the Selected Alternative is also consistent with the FTHL RMS. The transmission gen-tie is within Utility Corridor "N" as designated in the CDCA Plan. Utility Corridor "N" was created to allow utility transmission lines to pass through the Yuha Basin ACEC in order to provide access to the regional energy hub at the Imperial Valley Substation. Utility Corridor "N" was established to avoid siting transmission lines in other more sensitive areas on BLM land. The addition of the Selected Alternative also complies with the FTHL RMS as it would not result in an aggregate area of disturbance within the Imperial Valley (including the Selected Alternative) that exceeds the FTHL RMS' 1% threshold.

The BLM has found that all of the cultural resources identified within the Area of Potential Effect (APE) for the Selected Alternative would be avoided through project design with the exception of three archaeological sites. However, the BLM has determined that those three archaeological sites are not eligible for listing on the National Register of Historic Places (NRHP) because the sites are located in highly disturbed agricultural fields and no longer retain integrity or other characteristics that would allow them to be eligible for listing. Since the Selected Alternative has been modified and conditions imposed such that the eligible sites would be avoided, the BLM has concluded that there would be no direct adverse effect on cultural resources. Moreover, the mitigation measures provided in the EIR/EA and included as terms and conditions of the ROW grant would further reduce indirect impacts to cultural resources.

The site does not include areas mapped as prime farmlands, as defined by 7 CFR Section 657.5. As such, the Selected Alternative will not impact prime farmlands that are currently in active production. Additionally, the agricultural lands where the Selected Alternative will be constructed are currently fallow. Although construction of the Selected Alternative will prevent the immediate use of the site for agricultural production, the private easements and Imperial County Conditional Use Permit associated with the ISEC West Project require CSOLAR to restore the generating facility site to its agricultural use condition at the conclusion of project operation and decommissioning, making the site available to return to active agricultural production, as appropriate, at that time.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

No anticipated effects have been identified that are scientifically controversial. As a factor for determining within the meaning of 40 CFR 1508.27(b)(4) whether or not to prepare a detailed EIS, "controversy" is not equated with "the existence of opposition to a use." *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997). "The term 'highly controversial' refers to instances in which 'a substantial dispute exists as to the size, nature, or effect of the major federal action rather than the mere existence of opposition to a use.'" *Hells Canyon Preservation Council v. Jacoby*, 9 F.Supp.2d 1216, 1242 (D. Or. 1998). Comment letters on the EIR/EA provided no expert scientific evidence supporting claims that the project will have significant effects, or that it is highly controversial.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

Because there is always some uncertainty and risk regarding the effects of land management actions, the decision-maker must exercise some judgment in evaluating the degree to which the effects are likely to be highly uncertain and risks are unique or unknown (BLM NEPA Handbook, Section 7.3). The BLM has previously authorized three 230 kV lines in this area and was able to use information gathered from those prior projects to estimate the potential impacts of the Selected Alternative. As a result, the BLM can properly exercise its judgment and determine that it is unlikely that this project will have unique or unknown risks. The construction and operation of transmission lines and access roads is not unique or unusual. The effects of the construction and operation of transmission lines and access roads are well understood because the BLM has experience implementing similar actions in similar areas. For example, there are five existing transmission lines in Utility Corridor "N" and there are access roads adjacent to and around those transmission facilities. As such, there are no predicted effects of the Selected Alternative on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

Equally important, under CEQA the County of Imperial must exercise judgment in identifying and reducing negative environmental impacts of its land use decisions. The County has previously authorized many private solar developments on fallow and active agricultural fields comparable to the ISEC West Project, and therefore is able to use information gathered from those prior projects to estimate the potential impacts of the project. As a result, the county is proposing to recommend the approval of the findings of fact and make a de minimis finding for the private land components of the ISEC West Project upon the adoption of the Mitigation/Monitoring and Reporting Program.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

Decision makers must consider the degree to which the action may establish a precedent for future reasonably foreseeable actions with significant effects or represents a decision in principle about a future reasonably foreseeable condition (BLM NEPA Handbook, Section 7.3). After thorough analysis, as reflected in the EIR/EA, and implementation of the mitigation measures identified in the Decision Record and ROW Grant for the Selected Alternative, I have determined that the Selected Alternative would result in no significant unmitigated effects. This conclusion is based on the specific facts of this project and does not set precedent for, or automatically apply to future transmission line ROWs that the BLM is reviewing. Additionally, this is not the first transmission line ROW that the BLM has approved, and therefore, the type of land use action the BLM proposes to approve for the Selected Alternative does not establish precedents for future actions or represent a decision in principle about a future action. Moreover, this project will not limit the BLM's discretion when processing future ROW grants under FLPMA.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts—which include connected actions regardless of land ownership.*

The EIR/EA considered various types of past, present, and reasonably foreseeable projects on both public and private land within the geographic area of the Selected Alternative. Sixty-three proposed projects were considered for inclusion in the cumulative impact analysis. Chapter 5.0, Cumulative Impacts, in the EIR/EA provides an introduction and table of the projects considered and the parameters/rationale for including or excluding any individual project in the cumulative impact analysis for any given resource. By way of example, the parameters used to evaluate individual projects for inclusion as "reasonably foreseeable" in the biological resources analysis were: (1) projects in the Yuha Basin FTHL MA, (2) projects where the BLM has accepted a Plan of Development and determined it to be complete with sufficient details to analyze the potential impacts of the project; (3) private property projects in Imperial County that have submitted an application for a Conditional Use Permit; and (4) where information for such projects was available by the release of the Notice of Preparation of environmental analysis documentation.

Authorization of new ROW grants and ongoing improvements that serve public utility transmission systems has been analyzed in the BLM CDCA Plan and subsequent plan

amendments. These analyses have resulted in the designation of utility corridors and communication sites, mechanisms for consideration of new facilities as the need arises, and subsequent programmatic agreements for ongoing operations and maintenance activities. No significant site specific or cumulative impacts associated with the BLM action or the non-federal connected action have been identified that could not be avoided through mitigation, or that are inconsistent with those identified and analyzed within the above plans and programs.

The conclusions in the FONSI with respect to potential cumulative significant impacts is based on: (1) the Adoption of the Flat-tailed Horned Lizard Rangewide Management Strategy, 2003 Revision, An Arizona-California Conservation Strategy EA that resulted in the adoption of the FIHL RMS and amendment to the CDCA Plan; (2) evidence regarding potential cumulative impacts associated with the construction and operation of potential renewable energy projects identified in the Draft Solar PEIS, which assumes a level of renewable energy development (both on and outside BLM-managed lands) consistent with renewable energy requirements in Arizona, California, Colorado, New Mexico, Nevada, and Utah; and (3) cumulative impact information for projects identified during the comment period on the Draft EIR/EA.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

This is a sub-factor of the "unique characteristics of the geographic area" factor, and significance arises with the "loss or destruction" of significant scientific, cultural, or historical resources (BLM NEPA Handbook, Section 7.3). The EIR/EA fully analyzed and disclosed potential cultural resources impacts of the Selected Alternative and determined that the Selected Alternative would not result in any significant unmitigated impacts related to cultural resources (Final EIR/EA ES-23 to ES-26 and Section 4.7). As explained above, the BLM has found that all of the cultural resources identified within the APE for the Selected Alternative would be avoided through project design with the exception of three archaeological sites, which the BLM has determined are not eligible for listing on the NRHP because the sites are located in highly disturbed agricultural fields and no longer retain integrity or other characteristics that would allow them to be eligible for listing. Since the Selected Alternative has been modified and conditions imposed such that any potentially affected sites would be avoided with the exception of the three previously noted ineligible archaeological sites, the BLM has determined that there would be no direct adverse effect on cultural resources. The BLM presented its effects determination in a letter to the California State Historic Preservation Office (SHPO) on June 28, 2011 in which the BLM recommended a conditional finding of no

adverse effect on cultural resources based on the design of the Selected Alternative as described above and the EIR/EA (36 CFR 800.5(b)). The SHPO elected not to comment on the BLM recommendation, ending formal consultation between the SHPO and BLM for the project.

- 9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed or endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list.*

As explained in Section 4.12, Biological Resources, in the EIR/EA, the construction and operation of the transmission line and access road on BLM land may result in potential impacts to federally listed threatened or endangered and BLM-sensitive species, including the FTHL, nesting raptors, migratory birds, the Yuma clapper rail, Peninsular bighorn sheep, southwestern willow flycatcher, and mountain plover. However, potential impacts these species and/or their habitat under the Selected Alternative will be mitigated to below the level of significance by the measures described in Section 4.12 and 5.12.

Specifically, the area where the transmission line would be constructed is entirely within the Yuha Basin ACEC and in the Yuha Basin MA for the FTHL, a BLM-sensitive species. As a result, there is FTHL habitat in the areas that would be affected by the proposed transmission line route. However, the FTHL RMS analyzed the impacts to the FTHL within the Imperial Valley Substation area and Utility Corridor "N" when it established a one percent planned disturbance threshold to accommodate multiple transmission lines and gen-ties in the broader area of the ISEC West Project. Construction of the Selected Alternative would not result in an exceedance of the one percent threshold, and therefore, the cumulative impacts of multiple transmission lines have already been considered and provided for in FTHL RMS. Furthermore, as explained in Section 4.12 in the EIR/EA, mitigation measures would be implemented under the Selected Alternative to minimize impacts to the species in accordance with the FTHL RMS (EIR/ES at ES-40 to ES-48). Similarly, there is burrowing owl habitat on the generating facility site. The mitigation measures provided in Section 4.12 in the EIR/EA (EIR/EA at ES-52 to ES-54) and included as terms and conditions of the ROW grant would avoid, minimize, or mitigate the potential impact to burrowing owls. Additionally, while the EIR/EA did not identify any direct effects to nesting raptors and migratory birds, the ROW grant for the Selected Alternative requires the development of an Avian and Bat Protection Plan to address wildlife mortality monitoring and impact mitigation requirement. This plan, developed in consultation with the BLM and USFWS will include an adaptive management requirement to address future wildlife impacts issues with the appropriate state or federal agency, should any arise during project

construction, operation or decommissioning.

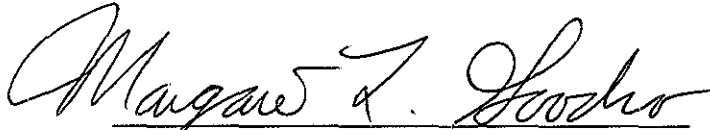
The BLM has, consistent with Section 7 of the Endangered Species Act (ESA), also engaged in consultation with the USFWS for the following federally listed threatened or endangered species, including the Yuma clapper rail, Peninsular bighorn sheep, southwestern will flycatcher, and FTHL and the mountain plover (the last two were part of consultation initially because listing decision were pending at the start of the consultation process). The USFWS issued a concurrence letter dated April 18, 2011 concurring with BLM's determination of that the project is "not likely to adversely affect" the Yuma clapper rail, Peninsular bighorn sheep, and southwestern willow flycatcher. The USFWS notified the BLM that Section 7 consultations for the FTHL and the mountain plover were no longer required for the ISEC West project on March 15, 2011 and May 12, 2011, respectively.

10) Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.

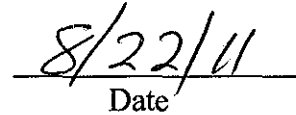
The Selected Alternative does not violate any known federal, state, local, or tribal law or requirement imposed for the protection of the environment. According to the BLM NEPA Handbook (Section 7.3), this factor often overlaps with others, such as the "public health" factor. The project will not violate environmental laws as documented in the EIR/EA and in this FONSI. Refer to the discussion for Intensity Factors 1 (compliance with water, air, hazardous materials, and other environmental laws), 8 (NHPA Section 106 compliance), and 9 (compliance with endangered species laws), above. Similarly, the Selected Alternative also does not violate the Farmland Protection Policy Act, as the EIR/EA evaluated the impacts of the ISEC West Project on agricultural lands. Finally, the project's conditional use permit with the County of Imperial special conditions G-1 and S-1 require the Permittee (Applicant) to comply with all local, state and/or federal laws, rules, regulations, ordinance, and/or standards.

Conclusion

Based on the findings discussed herein, I conclude that, with the implementation of the mitigation measures proposed in the EIR/EA and included as terms and conditions of the ROW grant, the Selected Alternative will result in no significant impacts to the quality of the human environment, individually or cumulatively with other actions in the general area under NEPA.



Margaret L. Goodro
Field Manager, El Centro Field Office


Date